

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHEASTERN DIVISION

NOTICE OF REMOVAL

Defendant, Anastasia Solovieva, M.D., a physician at Northeast Missouri Health Council, Inc., at the time of the incident alleged in the Complaint, sued in her individual capacity, hereby gives notice pursuant to 28 U.S.C. §§ 1446(a) & 1442(a)(1), 28 U.S.C. §2679(d)(2), and 42 U.S.C. §233(c), by and through her attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Nicholas P. Llewellyn, Assistant United States Attorney for said District, that she is removing this action to the United States District Court for the Eastern District of Missouri, Northeastern Division, on the following grounds:

1. Defendant Anastasia Solovieva, M.D. is a defendant in a civil action now pending in the Circuit Court of Adair County, State of Missouri, Cause No. 14AR-CV00628.
2. The action in state court against Kirksville Missouri Hospital Company d/b/a Northeast Regional Medical Center and Anastasia Solovieva, M.D., in her individual capacity, is a civil Petition for medical malpractice alleging negligent medical care. The specific allegations against Defendant are contained in Plaintiff's Petition. See Plaintiff's Petition, ¶¶ 9, 10, 11, 12, 16 and 18. Plaintiff Lyreva Clark claims she sustained injuries as a direct and proximate cause

of said alleged negligence and carelessness. As a result of said alleged wrongful acts and/or omissions, Plaintiff "sustained significant and permanent injury, disfigurement and impairment." See Plaintiff's Petition ¶19. Plaintiff claims to have suffered damages "incur(ing) medical, hospital, therapy, surgical and other expenses and will be required to incur such expenses in the future. Plaintiff has, and will, suffer pain and loss of enjoyment of life . . . in the past and in the future. Plaintiff has sustained lost wages and will sustain additional loss of earnings in the future." See Plaintiff's Petition, ¶19.

3. The United States Attorney for the Eastern District of Missouri has certified that Defendant Anastasia Solovieva, M.D., was acting within the scope of her employment at the time of the incident out of which the suit arises, pursuant to the Federally Supported Health Centers Assistance Act of 1992, Pub. L.102-501. (See Exhibit A, Declaration of United States Attorney Richard G. Callahan.) Northeast Missouri Health Council, Inc. was deemed eligible for Federal Torts Claim Act coverage on January 1, 2006. (See Exhibit B, Deeming Letter). Accordingly, Defendant Anastasia Solovieva, M.D. is deemed to be a U.S. Public Health Service employee covered by 42 U.S.C. §233(a) for acts and omissions that occurred after that date.

4. This Notice of Removal is brought pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. §2679(d)(2). See also, 42 U.S.C. §233(c). As set forth in 28 U.S.C. § 1442(a)(1), a civil action commenced in a state court against the United States or "any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an individual capacity for any act under color of such office...", may be removed "to the district court of the United States for the district and division embracing the place wherein it is pending." 28 U.S.C. §2679(d)(2), as well as 42 U.S.C. §233(c), provides for removal from state court "at any time before trial."

5. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders that have been served upon Defendant are attached. A certified copy of the state court file has been requested and shall be filed with this Court upon receipt.

WHEREFORE, this action, now pending in the Circuit Court of the County of Adair, Missouri, is removed to this Court.

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

/s/ Nicholas P. Llewellyn
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CERTIFICATE OF SERVICE

I certify that a copy of the *Notice of Removal* and *Notice of Filing of Notice of Removal* was filed electronically with the Clerk of the Court and sent via United States mail, postage prepaid, this 2nd day of June, 2015 to the following counsel of record:

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/s/ Nicholas P. Llewellyn
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